

# OFFICIAL CODE OF GEORGIA ANNOTATED

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## 2014 Supplement

Including Acts of the 2014 Regular Session of the General Assembly

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## THIS SUPPLEMENT CONTAINS

### **Statutes:**

All laws specifically codified by the General Assembly of the State of Georgia through the 2014 Regular Session of the General Assembly.

### **Annotations of Judicial Decisions:**

Case annotations reflecting decisions posted to LexisNexis® through March 21, 2014. These annotations will appear in the following traditional reporter sources: Georgia Reports; Georgia Appeals Reports; Southeastern Reporter; Supreme Court Reporter; Federal Reporter; Federal Supplement; Federal Rules Decisions; Lawyers' Edition; United States Reports; and Bankruptcy Reporter.

### **Annotations of Attorney General Opinions:**

Constructions of the Official Code of Georgia Annotated, prior Codes of Georgia, Georgia Laws, the Constitution of Georgia, and the Constitution of the United States by the Attorney General of the State of Georgia posted to LexisNexis® through March 21, 2014.

### **Other Annotations:**

References to:

Emory Bankruptcy Developments Journal.  
Emory International Law Review.  
Emory Law Journal.  
Georgia Journal of International and Comparative Law.  
Georgia Law Review.  
Georgia State University Law Review.  
John Marshall Law Review.  
Mercer Law Review.  
Georgia State Bar Journal.  
Georgia Journal of Intellectual Property Law.  
American Jurisprudence, Second Edition.  
American Jurisprudence, Pleading and Practice.  
American Jurisprudence, Proof of Facts.  
American Jurisprudence, Trials.  
Corpus Juris Secundum.  
Uniform Laws Annotated.  
American Law Reports, First through Sixth Series.  
American Law Reports, Federal.

### **Tables:**

In Volume 41, a Table Eleven-A comparing provisions of the 1976 Constitution of Georgia to the 1983 Constitution of Georgia and a Table Eleven-B comparing provisions of the 1983 Constitution of Georgia to the 1976 Constitution of Georgia.

An updated version of Table Fifteen which reflects legislation through the 2014 Regular Session of the General Assembly.

**Indices:**

A cumulative replacement index to laws codified in the 2014 supplement pamphlets and in the bound volumes of the Code.

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# **TITLE 37**

## **MENTAL HEALTH**

Chap.

1. Governing and Regulation of Mental Health, 37-1-1 through 37-1-100.
2. Administration of Mental Health, Developmental Disabilities, Addictive Diseases, and Other Disability Services, 37-2-1 through 37-2-50.
3. Examination, Treatment, etc., for Mental Illness, 37-3-1 through 37-3-168.
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### **CHAPTER 1**

#### **GOVERNING AND REGULATION OF MENTAL HEALTH**

##### **Article 2**

##### **Powers and Duties of the Department of Behavioral Health and Developmental Disabilities**

of Behavioral Health and Developmental Disabilities.

Sec.

37-1-20. Obligations of the Department

#### **ARTICLE 2**

#### **POWERS AND DUTIES OF THE DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL DISABILITIES**

##### **37-1-20. Obligations of the Department of Behavioral Health and Developmental Disabilities.**

The department shall:

- (1) Establish, administer, and supervise the state programs for mental health, developmental disabilities, and addictive diseases;
- (2) Direct, supervise, and control the medical and physical care and treatment; recovery; and social, employment, housing, and community supports and services based on single or co-occurring diagnoses provided by the institutions, contractors, and programs under its control, management, or supervision;

(3) Plan for and implement the coordination of mental health, developmental disability, and addictive disease services with physical health services, and the prevention of any of these diseases or conditions, and develop and promulgate rules and regulations to require that all health services be coordinated and that the public and private providers of any of these services that receive state support notify other providers of services to the same patients of the conditions, treatment, and medication regimens each provider is prescribing and delivering;

(4) Ensure that providers of mental health, developmental disability, or addictive disease services coordinate with providers of primary and specialty health care so that treatment of conditions of the brain and the body can be integrated to promote recovery, health, and well-being;

(5) Have authority to contract, including performance based contracts which may include financial incentives or consequences based on the results achieved by a contractor as measured by output, quality, or outcome measures, for services with community service boards, private agencies, and other public entities for the provision of services within a service area so as to provide an adequate array of services and choice of providers for consumers and to comply with the applicable federal laws and rules and regulations related to public or private hospitals; hospital authorities; medical schools and training and educational institutions; departments and agencies of this state; county or municipal governments; any person, partnership, corporation, or association, whether public or private; and the United States government or the government of any other state;

(6) Establish and support programs for the training of professional and technical personnel as well as regional planning boards and community service boards;

(7) Have authority to conduct research into the causes and treatment of disability and into the means of effectively promoting mental health and addictive disease recovery;

(8) Assign specific responsibility to one or more units of the department for the development of a disability prevention program. The objectives of such program shall include, but are not limited to, monitoring of completed and ongoing research related to the prevention of disability, implementation of programs known to be preventive, and testing, where practical, of those measures having a substantive potential for the prevention of disability;

(9) Establish a system for regional administration of mental health, developmental disability, and addictive disease services in institutions and in the community;

- (10) Make and administer budget allocations to regional offices established by the board pursuant to Code Section 37-2-4.1 to fund the operation of mental health, developmental disabilities, and addictive diseases facilities and programs;
- (11) Coordinate in consultation with providers, professionals, and other experts the development of appropriate outcome measures for client centered service delivery systems;
- (12) Establish, operate, supervise, and staff programs and facilities for the treatment of disabilities throughout this state;
- (13) Disseminate information about available services and the facilities through which such services may be obtained;
- (14) Supervise the regional office's exercise of its responsibility and authority concerning funding and delivery of disability services;
- (15) Supervise the regional offices concerning the receipt and administration of grants, gifts, moneys, and donations for purposes pertaining to mental health, developmental disabilities, and addictive diseases;
- (16) Supervise the administration of contracts with any hospital, community service board, or any public or private providers without regard to regional or state boundaries for the provision of disability services and in making and entering into all contracts necessary or incidental to the performance of the duties and functions of the department and the regional offices;
- (17) Regulate the delivery of care, including behavioral interventions and medication administration by licensed staff, or certified staff as determined by the department, within residential settings serving only persons who are receiving services authorized or financed, in whole or in part, by the department;
- (18) Classify host homes for persons whose services are financially supported, in whole or in part, by funds authorized through the department. As used in this Code section, the term "host home" means a private residence in a residential area in which the occupant owner or lessee provides housing and provides or arranges for the provision of food, one or more personal services, supports, care, or treatment exclusively for one or two persons who are not related to the occupant owner or lessee by blood or marriage. A host home shall be occupied by the owner or lessee, who shall not be an employee of the same community provider which provides the host home services by contract with the department. The department shall approve and enter into agreements with community providers which, in turn, contract with host homes. The occupant owner or lessee shall not be the guardian of any person served or of their property nor the agent

in such person's advance directive for health care. The placement determination for each person placed in a host home shall be made according to such person's choice as well as the individual needs of such person in accordance with the requirements of Code Section 37-3-162, 37-4-122, or 37-7-162, as applicable to such person;

(19) Provide guidelines for and oversight of host homes, which may include, but not be limited to, criteria to become a host home, requirements relating to physical plants and supports, placement procedures, and ongoing oversight requirements;

(20) Establish a unit of the department which shall receive and consider complaints from individuals receiving services, make recommendations to the commissioner regarding such complaints, and ensure that the rights of individuals receiving services are fully protected;

(21) With respect to housing opportunities for persons with mental illness and co-occurring disorders:

(A) Coordinate the department's programs and services with other state agencies and housing providers;

(B) Facilitate partnerships with local communities;

(C) Educate the public on the need for supportive housing;

(D) Collect information on the need for supportive housing and monitor the benefit of such housing; and

(E) Identify and determine best practices for the provision of services connected to housing;

(22) Exercise all powers and duties provided for in this title or which may be deemed necessary to effectuate the purposes of this title;

(23) Assign specific responsibility to one or more units of the department for the development of programs designed to serve disabled infants, children, and youth. To the extent practicable, such units shall cooperate with the Georgia Department of Education and the University System of Georgia in developing such programs;

(24) Have the right to designate private institutions as state institutions; to contract with such private institutions for such activities, in carrying out this title, as the department may deem necessary from time to time; and to exercise such supervision and cooperation in the operation of such designated private institutions as the department may deem necessary; and

(25) Establish policies and procedures governing fiscal standards and practices of community service boards and their respective

governing boards. (Code 1933, §§ 88-601, 88-602, 88-603, enacted by Ga. L. 1964, p. 499, § 1; Code 1933, § 88-603, enacted by Ga. L. 1976, p. 953, § 1; Ga. L. 1982, p. 3, § 37; Ga. L. 1987, p. 3, § 37; Ga. L. 1993, p. 1445, § 7; Ga. L. 2002, p. 1324, § 1-6; Ga. L. 2003, p. 558, §§ 5, 6; Ga. L. 2008, p. 263, § 2/SB 469; Ga. L. 2009, p. 8, § 37/SB 46; Ga. L. 2009, p. 453, § 3-1/HB 228; Ga. L. 2014, p. 309, § 1/SB 349.)

**The 2014 amendment**, effective April 16, 2014, inserted “, including performance based contracts which may include financial incentives or consequences based on the results achieved by a contractor as measured by output, quality, or

outcome measures,” near the beginning of paragraph (5); deleted “and” at the end of paragraph (23); substituted “; and” for a period at the end of paragraph (24); and added paragraph (25).

## JUDICIAL DECISIONS

**Cited** in Lakeview Behavioral Health Sys., LLC v. UHS Peachford, LP, 321 Ga. App. 820, 743 S.E.2d 492 (2013).

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## CHAPTER 2

### **ADMINISTRATION OF MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, ADDICTIVE DISEASES, AND OTHER DISABILITY SERVICES**

#### **Article 1 General Provisions**

Sec.	Article 1 General Provisions	Sec.
37-2-2.	Definitions.	37-2-6.1. Community service boards — Executive director, staff, budget, facilities; powers and duties; exemption from state and local taxation.
37-2-3.	Designation of boundaries for mental health, development disabilities, and addictive diseases regions; community service board areas.	37-2-6.3. Public body; lawsuits; debts, obligations, and liabilities.
37-2-6.	Community mental health, developmental disabilities, and addictive diseases service boards — Community service board creation; membership; participation of counties; transfer of powers and duties; alternate method of establishment; bylaws; reprisals prohibited.	37-2-6.5. Cessation of operations by community service board; notification; continuation of operations by successor board, county board of health, or outside manager.
		37-2-10. Commissioner’s emergency powers upon failure of community service board to establish and administer programs.

**ARTICLE 1**  
**GENERAL PROVISIONS**

**37-2-2. Definitions.**

As used in this chapter, the term:

- (1) "Community service board" means a public mental health, developmental disabilities, and addictive diseases board established pursuant to Code Section 37-2-6.
- (2) "Community service board area" means an area inclusive of the counties which fall within the boundaries of a community service board as designated by the department pursuant to subsection (b) of Code Section 37-2-3 for the establishment of a community service board.
- (3) "Community service board service area" means a community service board area and any other county or portion thereof in which the community service board provides services.
- (4) "Council" means the Behavioral Health Coordinating Council established pursuant to Code Section 37-2-4.
- (5) "Governing board" means the governing board of a community service board established pursuant to subsection (b) of Code Section 37-2-6.
- (6) "Health services" means any education or service provided by the department, the Department of Public Health, or the Department of Human Services, either directly or by contract.
- (7) "Hospital" means a state owned or state operated facility providing services which include, but are not limited to, inpatient care and the diagnosis, care, and treatment or habilitation of the disabled. Such hospital may also provide or manage state owned or operated programs in the community. (Code 1933, § 88-602, enacted by Ga. L. 1976, p. 953, § 1; Ga. L. 1986, p. 1213, § 1; Ga. L. 1993, p. 1445, § 16; Ga. L. 1995, p. 1302, § 17; Ga. L. 2002, p. 1324, §§ 1-7, 2-2; Ga. L. 2006, p. 310, § 3/HB 1223; Ga. L. 2009, p. 453, § 3-1/HB 228; Ga. L. 2011, p. 705, § 6-3/HB 214; Ga. L. 2014, p. 309, § 2/SB 349.)

**The 2014 amendment**, effective April 16, 2014, added paragraph (5) and redesignated former paragraphs (5) and (6) as

present paragraphs (6) and (7), respectively.

**37-2-3. Designation of boundaries for mental health, development disabilities, and addictive diseases regions; community service board areas.**

(a) The board shall designate boundaries for mental health, developmental disabilities, and addictive diseases regions and may modify the boundaries of such regions from time to time as deemed necessary by the board.

(b) The department, with the approval of the commissioner, shall designate community service board areas, which shall serve as boundaries for the establishment of community service boards within this state for the purpose of delivering disability services. The department shall be authorized to initiate the redesignation of such community service board area boundaries and may consider requests from a county or group of counties or a community service board or a group of community service boards for recommended changes to the boundaries of the community service board areas. The department, with the approval of the commissioner, is authorized to redesignate two or more community service board areas as a single community service board area. Two or more community service boards may request that the department, with the approval of the commissioner, merge the community service board areas served by such boards into a single community service board area. If the department, with the approval of the commissioner, authorizes the redesignation or merging of community services board areas pursuant to this paragraph, the assets, equipment, and resources of such community service boards shall become the assets, equipment, and resources of the reconstituted community service board serving the successor single board area. It is the intent of the General Assembly not to limit a community service board to serving only those counties within the boundaries of its community service board area.

(c) To the extent practicable, the boundaries for regional planning boards and offices and community service areas shall not subdivide any county unit. In dividing the state into areas, the board and the department shall take into consideration such factors as geographic boundaries, roads and other means of transportation, population concentrations, city and county lines, other relevant community services, and community economic and social relationships. Consideration shall also be given to the existence of facilities and personnel available in the areas for the delivery of disability services. (Code 1933, § 88-604, enacted by Ga. L. 1976, p. 953, § 1; Ga. L. 1986, p. 1213, § 1; Ga. L. 1993, p. 1445, § 16; Ga. L. 2002, p. 1324, § 1-7; Ga. L. 2006, p. 310, § 4/HB 1223; Ga. L. 2009, p. 453, § 3-1/HB 228; Ga. L. 2011, p. 705, § 6-3/HB 214; Ga. L. 2014, p. 309, § 3/SB 349.)

**The 2014 amendment**, effective April 16, 2014, in subsection (b), substituted “community service board areas as a single community service board area.” for “contiguous community service board areas as a single community service board area upon the request of the community service boards serving such areas; and, if so authorized” in the third sentence, added the fourth sentence, and added “If the department, with the approval of the

commissioner, authorizes the redesignation or merging of community services board areas pursuant to this paragraph” at the beginning of the fifth sentence; and in subsection (c), deleted “or conflict with any districts established by the Department of Public Health and the state relating to the planning for, or delivery of, health services” at the end of the first sentence.

**37-2-6. Community mental health, developmental disabilities, and addictive diseases service boards — Community service board creation; membership; participation of counties; transfer of powers and duties; alternate method of establishment; bylaws; reprisals prohibited.**

(a) Community service boards in existence on June 30, 2014, are re-created effective July 1, 2014, to provide mental health, developmental disabilities, and addictive diseases services. Such community service boards may enroll and contract with the department, the Department of Human Services, the Department of Public Health, or the Department of Community Health to become a provider of mental health, developmental disabilities, and addictive diseases services or health, recovery, housing, or other supportive services. Such boards shall be considered public agencies. Each community service board shall be a public corporation and an instrumentality of the state; provided, however, that the liabilities, debts, and obligations of a community service board shall not constitute liabilities, debts, or obligations of the state or any county or municipal corporation and neither the state nor any county or municipal corporation shall be liable for any liability, debt, or obligation of a community service board. Each community service board re-created pursuant to this Code section is created for nonprofit and public purposes to exercise essential governmental functions. The re-creation of community service boards pursuant to this Code section shall not alter the provisions of Code Section 37-2-6.2 which shall apply to those re-created community service boards and their employees covered by that Code section and those employees' rights are retained.

(b) The governing board of each community service board shall consist of members appointed by the governing authorities of the counties within the community service board area. Membership on such governing board shall be determined as follows:

(1)(A) The governing authority of each county within the community service board area:

- (i) With a population of 50,000 or less according to the most recent United States decennial census shall appoint one member to such governing board; and
- (ii) With a population of more than 50,000 according to the most recent United States decennial census shall appoint one member for each population increment of 50,000 or any portion thereof; or

(B) In the event that the number of governing board member positions established in accordance with subparagraph (A) of this paragraph would exceed nine, the membership of such governing board pursuant to this subsection shall be appointed as follows and the bylaws shall be amended accordingly:

- (i) For community service boards whose community service board area contains nine or fewer counties, the membership of the board shall be set at nine members and appointments to the board shall be made by the governing authority of each county within the community service board area in descending order from the county with the largest population to the county with the smallest population according to the most recent United States decennial census and this method shall be repeated until all nine members of the governing board of the community service board are appointed. If a county governing authority fails to make an appointment within a reasonable time, the next descending county by population shall make an appointment and the method shall continue; and
- (ii) For community service boards whose community service board area contains more than nine counties, one member of the governing board of the community service board shall be appointed by the governing authority of each county within the community service board area, so that the number of members on the governing board is equal to the number of counties in the community service board area.

The county governing authority shall appoint as at least one of its appointments a consumer of disability services; a psychiatrist, a psychologist, or other behavioral health or development disabilities professional; a law enforcement officer; a family member of a consumer; an advocate for disability services; a parent of a child with mental illness or addictive disease; or a local leader or businessperson with an interest in mental health, developmental disabilities, and addictive diseases; provided, however, that for counties with more than one appointment, the county governing authority shall seek to ensure that such appointments represent various groups and disability services;

(2) In addition to the members appointed pursuant to paragraph (1) of this subsection, the governing board of each community service board may appoint one additional member in order to address variation in the population sizes of counties or the financial contributions of counties within the community service board area. The bylaws of the community service board shall address the establishment of the additional governing board membership position, if established, and the purpose or purposes for which such position is created. The term of office of such additional member shall be the same as that of other members of the governing board of the community service board as provided in subsection (h) of this Code section;

(3) In addition to the members appointed pursuant to paragraphs (1) and (2) of this subsection, each governing board of a community service board shall have additional members who shall serve on such governing board while concurrently holding elective or appointive office and who shall be appointed by a county governing authority as follows:

(A) The number of elected or appointed officials serving on the governing board of a community service board shall be equal to one-third, defined herein as 33 percent or 0.33, of the number of the members of such board appointed in accordance with paragraph (1) of this subsection. In the event the calculation of such percentage yields a whole number and a fraction of a whole number, then the number of members to be appointed shall be equal to the nearest whole number; however, a fraction equal to 50 percent or greater shall be rounded to the next highest whole number;

(B) The governing authority of each county in the community service board area making the largest cash or in-kind financial contribution in descending order to the community service board in the county fiscal year immediately prior to the time of such appointment shall make one appointment of an elected or appointed official to the community service board until the number of such appointments required by this paragraph is reached. For community service boards whose community service board areas contains fewer counties than the number of appointments made pursuant to this paragraph, the membership appointments of elected or appointed officials to the governing board shall be made in the descending order prescribed in this paragraph and this method shall be repeated until all members who hold elective or appointive office are appointed to the governing board of the community service board. In the event that the number of such county governing authorities making a cash or in-kind financial contribution to the community service board does not result in the

number of appointments required by this paragraph, the remaining appointment or appointments shall be made by the governing authority or authorities of the county or counties in the community service board area with the largest population in descending order according to the most recent United States decennial census until the number of appointments required by this paragraph is reached. For community service boards whose community service board area contains three or fewer counties, the membership appointments of elected or appointed officials to the governing board shall be made in the descending order prescribed in this paragraph and this method shall be repeated until all members who hold elective or appointive office are appointed to the governing board of the community service board. In the event there is no county in the community service board area where the governing authority made a cash or in-kind financial contribution to the community service board in the county fiscal year immediately prior to the time of such appointment, the appointments required by this paragraph shall be made by the governing authority or authorities of the county or counties in the community service board area with the largest population in descending order according to the most recent United States decennial census until the number of appointments required by this paragraph is reached;

(C) As used in this paragraph, the term "elective or appointive office" or "elected or appointed official" means:

- (i) The elected chief executive officer, by whatever name called, of the county governing authority making the appointment to the governing board of the community service board;
- (ii) An elected member of such county governing authority;
- (iii) The county manager of such county governing authority where such position exists as defined in Code Section 36-5-22;
- (iv) The sheriff of such county;
- (v) The elected chief executive officer, by whatever name called, an elected member of the governing authority, or an appointed city manager of any municipality lying wholly or partially within such county;
- (vi) A member of the board of education of such county or a member of the governing board of any municipal school system lying wholly or partially within such county;
- (vii) The school superintendent of such county or the superintendent of any municipal school system lying wholly or partially within such county;

(viii) The appointed public safety commissioner, police chief, or fire chief of such county or any municipality lying wholly or partially within such county; or

(ix) Any other elected official from within such county;

(D) No member of the governing board of the community service board appointed pursuant to this paragraph shall continue to serve on the governing board if such member no longer holds the elective or appointive office which made him or her eligible for appointment to such board. The term of office of an elected official appointed to serve as a member of the governing board of a community service board shall be the same as such official's elective term of office. The term of office of an appointed official appointed to serve as a member of such governing board shall be the same as that of other members of such governing board; and

(E) As used in this paragraph, the term "in-kind financial contribution" means the most current dollar value of any physical facilities or buildings and equipment, including vehicles, of all kinds provided at no cost by the county governing authority for use by the community service board.

(4) Each community service board in existence on June 30, 2014, shall reconstitute the membership of its governing board in accordance with the provisions of paragraphs (2) and (3) of this subsection, effective July 1, 2014.

A community service board which increases or reduces the number of its members of its governing board in accordance with paragraphs (2) and (3) of this subsection shall revise its bylaws adopted in accordance with subsection (h) of this Code section to reflect such increases or reductions. A community service board which reduces the number of members of its governing board shall designate which position or positions are to be eliminated and shall make reasonable efforts to eliminate any position or positions of governing board members whose terms expire on or before June 30, 2014; provided, however, that members serving on the governing board of a community service board whose terms do not expire on or before June 30, 2014, shall continue to serve out the terms of office to which they were appointed, regardless of whether this causes a governing board to temporarily exceed the maximum number of members. Any additional positions created in conformity with such paragraphs (2) and (3) may be filled on July 1, 2014, and the governing authority of a county that is otherwise authorized to appoint such additional member or members to the governing board of a community service board may do so no sooner than May 1, 2014, but any person so appointed shall not take office until July 1, 2014. If a position on such governing board of the

community service board is not filled on July 1, 2014, a vacancy in that position shall be deemed to have occurred on that date. A governing board of the community service board is authorized to make whatever changes necessary in the terms of office of its members in order to achieve the staggering of terms required by subsection (h) of this Code section;

(5)(A) A person shall not be eligible to be appointed to or serve on a governing board of a community service board if such person is:

(i) A member of the regional planning board which serves the region in which that community service board is located;

(ii) An employee or board member of a public or private entity which contracts with the department to provide mental health, developmental disabilities, and addictive diseases services within the community service board area served by that community service board;

(iii) An employee of that community service board or employee or board member of any private or public group, organization, or service provider which contracts with or receives funds from that community service board; or

(iv) A former employee of that community service board until a period of at least two years has passed since the time such person was employed by that community service board.

(B) A person shall not be eligible to be appointed to or serve on a governing board of a community service board if such person's spouse, parent, child, or sibling is a member of that governing board or a member, employee, or board member specified in this paragraph. With respect to appointments by the same county governing authority, no person who has served a full term or more on a governing board of a community service board may be appointed to a regional planning board until a period of at least two years has passed since the time such person served on the governing board of a community service board, and no person who has served a full term or more on a regional planning board may be appointed to the governing board of a community service board until a period of at least two years has passed since the time such person has served on the regional planning board; and

(6) A governing board of a community service board created in accordance with this subsection shall reconstitute its governing board membership in conformity with the most recent United States decennial census in accordance with subparagraph (d) (2) (C) of Code Section 1-3-1.

(b.1) A county governing authority may appoint a member of the county board of health to serve on the governing board of the commu-

nity service board provided that such person meets the qualifications of paragraph (1) or (2) of subsection (b) of this Code section and such appointment does not violate the provisions of Chapter 10 of Title 45. For terms of office which begin July 1, 1994, or later, an employee of the Department of Human Resources (now known as the Department of Behavioral Health and Developmental Disabilities for these purposes) or an employee of a county board of health shall not serve on a governing board of a community service board. For terms of office which begin July 1, 2009, or later, an employee of the department, the Department of Human Services, the Department of Public Health, or the Department of Community Health or a board member of the respective boards of each department shall not serve on a governing board of a community service board.

(c) In making appointments to the governing board of a community service board, the county governing authorities shall ensure that such appointments are reflective of the cultural and social characteristics, including gender, race, ethnic, and age characteristics, of the community service board area and county populations. The county governing authorities are further encouraged to ensure that each disability group is represented on the governing board of the community service board, and in making such appointments the county governing authorities may consider suggestions from clinical professional associations as well as advocacy groups. For the purposes of this subsection, the term "advocacy groups" means any organizations or associations that advocate for, promote, or have an interest in disability services and are exempted as a charitable organization from federal income tax pursuant to Section 501(c) of the Internal Revenue Code; provided, however, that "advocacy groups" shall not mean paid providers of disability services or health services.

(c.1) A county governing authority in making appointments to the governing board of a community service board shall take into consideration that at least one member of the governing board of a community service board is an individual who is trained or certified in finance or accounting; provided, however, that if after a reasonable effort at recruitment there is no person trained or certified in finance or accounting within the community service board area who is willing and able to serve, the county governing authority may consider for appointment any other person having a familiarity with financial or accounting practices.

(d) Each county in which the governing authority of the county is authorized to appoint members to the governing board of the community service board shall participate with the board in the operation of the program through the community service board. All contractual obligations, including but not limited to real estate leases, rentals, and

other property agreements, other duties, rights, and benefits of the mental health, developmental disabilities, and addictive diseases service areas in existence on June 30, 2014, shall continue to exist along with the new powers granted to the community service boards effective July 1, 2014.

(e) Notwithstanding any other provision of this chapter, a community service board may be constituted in a method other than that outlined in subsection (b) of this Code section if:

(1) A board of health of a county desiring to be the lead county board of health for that county submits a written agreement to the former Division of Mental Health, Developmental Disabilities, and Addictive Diseases (now known as the Department of Behavioral Health and Developmental Disabilities) of the former Department of Human Resources before July 1, 1993, to serve as the community service board and to continue providing disability services in that county after July 1, 1994, and the governing authority for that county adopted a resolution stating its desire to continue the provision of disability services through its board of health after July 1, 1994, and submitted a copy of such resolution to the former division before July 1, 1993; or

(2)(A) The lead county board of health for a community mental health, mental retardation, and substance abuse service area, as designated by the former Division of Mental Health, Developmental Disabilities, and Addictive Diseases (now known as the Department of Behavioral Health and Developmental Disabilities) of the former Department of Human Resources on July 15, 1993, but which area excludes any county which meets the requirements of paragraph (1) of this subsection, submitted a written agreement to the former division and to all counties within such service area to serve as the community service board for that area and to continue providing disability services after July 1, 1994, which agreement was submitted between July 31, 1993, and December 31, 1993; and

(B) Each county governing authority which is within the service area of a lead county board of health which has submitted an agreement pursuant to subparagraph (A) of this paragraph adopted a resolution stating its desire to continue the provision of disability services through such lead county board of health after July 1, 1994, and submitted a copy of that resolution to the former division, the regional board, and the lead county board of health between July 31, 1993, and December 31, 1993; and

(3) The lead county board of health qualifying as such under paragraph (1) or (2) of this subsection agrees in writing to appoint a director for mental health, mental retardation, and substance abuse

other than the director of the county board of health as stipulated in Code Section 31-3-12.1, to appoint an advisory council on mental health, mental retardation, and substance abuse consisting of consumers, families of consumers, and representatives from each of the counties within the boundaries of the community service board, and to comply with all other provisions relating to the delivery of disability services pursuant to this chapter.

(f) If the conditions enumerated in subsection (e) of this Code section are not met prior to or on December 31, 1993, a community service board as provided in subsection (b) shall be established and appointed by January 31, 1994, to govern the provision of disability services within the boundaries of the community service board. Such community service board shall have the authority to adopt bylaws and undertake organizational and contractual activities after January 31, 1994; provided, however, that the community service board established pursuant to this Code section may not begin providing services to clients until July 1, 1994.

(g) If a community service board is established pursuant to paragraph (2) of subsection (e) of this Code section, such community service board must operate as established at least until June 30, 1996; provided, however, that in each fiscal year following June 30, 1996, the counties included under the jurisdiction of such a community service board may vote to reconstitute the community service board pursuant to the provisions of subsection (b) of this Code section by passage of a resolution by a majority of the county governing authorities within the jurisdiction of the community service board prior to January 1, 1997, or each year thereafter.

(h) The governing board of each community service board shall adopt bylaws and operational policies and guidelines in conformity with the provisions of this chapter. Those bylaws shall address governing board appointment procedures, initial terms of governing board members, the staggering of terms, quorum, a mechanism for ensuring that consumers of disability services and family members of consumers constitute no less than 50 percent of the governing board members appointed pursuant to paragraphs (1) and (2) of subsection (b) of this Code section, and a mechanism for ensuring equitable representation of the various disability groups. A quorum for the transaction of any business and for the exercise of any power or function of the governing board of the community service board shall consist of a majority of the total number of filled governing board member positions appointed pursuant to subsection (b) of this Code section. A vote of the majority of such quorum shall be the act of the governing board of the community service board except where the bylaws of the community service board may require a greater vote. The regular term of office for each member of the

governing board of a community service board shall be three years. Vacancies on such governing board shall be filled in the same manner as the original appointment. For the purposes of this subsection, "equitable representation of the various disability groups" shall mean that consumers and family members of such consumers who constitute no less than 50 percent of the governing board members holding membership pursuant to paragraphs (1) and (2) of subsection (b) of this Code section shall be appointed so as to assure that an equal number of such members to the fullest extent possible represents mental health, developmental disabilities, and addictive diseases interests.

(i) The governing board of each community service board which is composed of members who are appointed thereto by the governing authority of only one county shall have a minimum of seven and no more than nine members, not including any additional members appointed pursuant to paragraphs (2) and (3) of subsection (b) of this Code section, notwithstanding the provisions of subsection (b) of this Code section, which members in all other respects shall be appointed as provided in this Code section.

(j) No governing board member, officer, or employee of a community service board who has authority to take, direct others to take, recommend, or approve any personnel action shall take or threaten action against any employee of a community service board as a reprisal for making a complaint or disclosing information concerning the possible existence of any activity constituting fraud, waste, or abuse in or relating to the programs, operations, or client services of the community service board, to the governing board of the community service board, to a member of the General Assembly, or to the department unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity. Any action taken in violation of this subsection shall give the public employee a right to have such action set aside in a proceeding instituted in the superior court.

(k) A member of a governing board of a community service board who after notice that such member has failed to complete any required training prescribed by the department pursuant to paragraph (6) of Code Section 37-1-20 continues such failure for 30 days may be removed from office by the remaining members of the governing board of the community service board.

(l) A member of a governing board of a community service board may resign from office by giving written notice to the executive director of the community service board. The resignation is irrevocable after delivery to such executive director but shall become effective upon the date on which the notice is received or on the effective date given by the member in the notice, whichever date is later. The executive director,

upon receipt of the resignation, shall give notice of the resignation to the remaining members of the governing board of the community service board and to the chief executive officer or governing authority of the county that appointed the member.

(m) The office of a member of a governing board of a community service board shall be vacated upon such member's resignation, death, or inability to serve due to medical infirmity or other incapacity, removal by the community service board as authorized in this Code section, or upon such other reasonable condition as the community service board may impose under its bylaws.

(n) Each member of the governing board of a community service board shall comply with the code of ethics for members of boards, commissions, and authorities as set forth in Code Section 45-10-3. A governing board member who fails to comply with such code may be subject to removal from office by the remaining members of the governing board of the community service board or by the commissioner as authorized in Code Section 37-2-10. The governing board of the community service board shall revise the bylaws of the community service board adopted in accordance with subsection (h) of this Code section to reflect the requirements of this subsection.

(o) A member of the governing board of a community service board shall have a fiduciary responsibility to avoid any conflict of interest in a manner that is consistent with the declarations found in Code Section 45-10-2. When such governing board is to decide an issue about which a member has an unavoidable conflict of interest, such member shall absent herself or himself from not only the vote, but also from any deliberation on such issue. Members of the governing board of a community service board shall not use their positions to obtain employment with or contracts from the community service board, its funding sources, or its suppliers of goods and services for themselves, family members, or close associates. Should such member desire such employment, such member shall first resign. No person who has served as a member of the governing board of a community service board may be employed by that community service board, either directly or by contract, until a period of at least two years has passed since the time such person served as a member of the governing board of that community service board. A governing board member or a member of the governing board member's family may obtain disability or health services from the community service board in the ordinary course of the community service board's provision of such disability or health services on the same terms and under the same conditions applicable to any member of the public. An individual governing board member shall not exercise individual authority over the community service board's operations, affairs, property, or personnel, except when such member's

action is explicitly permitted by action of the governing board of the community service board by policy or by resolution. The governing board of the community service board shall revise the bylaws of the community service board adopted in accordance with subsection (h) of this Code section to reflect the requirements of this subsection.

(p) A member of a governing board of a community service board may not enter upon the duties of office until such member takes the following oath of office:

STATE OF GEORGIA

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, do solemnly swear or affirm that I will truly perform the duties of a member of the governing board of the \_\_\_\_\_ Community Service Board to the best of my ability.

I do further swear or affirm:

- (1) That I am not the holder of any unaccounted for public money due this state or any political subdivision or authority thereof;
- (2) That I am not the holder of any office of trust under the government of the United States, any other state, or any foreign state which I am by the laws of the State of Georgia prohibited from holding;
- (3) That I am otherwise qualified to hold said office according to the Constitution and the laws of Georgia; and
- (4) That I will support the Constitution of the United States and this state.

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\_\_\_\_\_  
Signature of member of  
the governing board of the  
Community Service Board

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\_\_\_\_\_  
Typed name of member of  
the governing board of the  
Community Service Board

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Sworn and subscribed  
before me this \_\_\_\_\_ day  
of \_\_\_\_\_, \_\_\_\_\_.  
(SEAL)

(Code 1933, § 88-607, enacted by Ga. L. 1976, p. 953, § 1; Ga. L. 1986, p. 1213, § 1; Ga. L. 1993, p. 1445, § 16; Ga. L. 1994, p. 437, § 4; Ga. L. 1999, p. 860, § 1; Ga. L. 2002, p. 1324, §§ 1-7, 2-3; Ga. L. 2006, p. 310, § 5/HB 1223; Ga. L. 2009, p. 453, § 3-1/HB 228; Ga. L. 2010, p. 878, § 37/HB 1387; Ga. L. 2011, p. 705, § 5-22/HB 214; Ga. L. 2014, p. 309, § 4/SB 349.)

**The 2014 amendment**, effective April 16, 2014, rewrote this Code section.

**Code Commission notes.** — Pursuant to Code Section 28-9-5, in 2014, the second

division (b)(3)(C)(vii), as added by Ga. L. 2014, p. 309, § 4/SB 349, was redesignated as division (b)(3)(C)(viii).

### **37-2-6.1. Community service boards — Executive director, staff, budget, facilities; powers and duties; exemption from state and local taxation.**

(a) Each governing board of each community service board shall employ an executive director to serve as its chief executive officer and shall prescribe the duties thereof. The selection of the executive director and all terms of compensation shall be set by the governing board of each community service board and shall be subject to review and approval by the commissioner prior to any offer of employment or at any point thereafter where the terms of compensation are proposed to be substantially altered. Such contracts shall be reviewed by the commissioner every five years. Further, the commissioner shall be required to review and approve the selection of the executive director of each community service board for adherence to minimum qualifications for the position as prescribed by the department. The executive director shall direct the day-to-day operations of the community service board. Such executive director shall be appointed and removed by the community service board pursuant to this subsection and shall appoint other necessary staff pursuant to an annual budget adopted by the board, which budget shall provide for securing appropriate facilities, sites, and professionals necessary for the provision of disability and health services. Notwithstanding any other provision of law to the contrary, the governing board of the community service board may delegate any power, authority, duty, or function to its executive director or other staff. The executive director or other staff is authorized to exercise any power, authority, duty, or function on behalf of the governing board of the community service board.

(1) The executive director or any full-time or part-time employee of a community service board shall have a responsibility to avoid any conflict of interest in a manner that is consistent with the declarations found in Code Section 45-10-2. Such employees shall not transact any business with that community service board as prohibited in Code Section 45-10-23 unless any such transaction falls under the exceptions granted in Code Section 45-10-25. Transactions that fall under such exceptions shall be disclosed to the governing board of the community service board in the manner as such governing board shall determine and yearly to the Georgia Government Transparency and Campaign Finance Commission as prescribed in Code Section 45-10-26. The governing board of the community service board shall promulgate policies and procedures governing executive director and employee conflicts of interest and establish a code of ethics for the executive director and employees of the community service board.

(b) Each governing board of a community service board or each community service board, under the jurisdiction of its governing board, shall perform duties, responsibilities, and functions and may exercise power and authority described in this subsection as follows:

(1) Each governing board of a community service board shall adopt bylaws for the conduct of its affairs and the affairs of their respective community service boards; provided, however, that the governing board of a community service board shall meet at least quarterly, and that all such meetings and any bylaws shall be open to the public, as otherwise required under Georgia law;

(2) Each governing board of a community service board shall be required to review and approve the annual budget of the community service board and shall be required to establish the general policies related to such budget to be followed by the community service board;

(3) Each community service board shall provide an adequate range of disability services as prescribed by the department;

(4) Each community service board may make and enter into all contracts necessary and incidental to the performance of its duties and functions;

(5) Each community service board may acquire by purchase, gift, lease, or otherwise and may own, hold, improve, use, and sell, convey, exchange, transfer, lease, sublease, and dispose of real and personal property of every kind and character, or any interest therein, for its corporate purposes;

(6) Each community service board may contract to utilize the services of the Department of Administrative Services, the state auditor, or any other agency of state, local, or federal government;

(7) Each community service board may provide, either independently or through contract with appropriate state or local governmental entities, the following benefits to its employees, their dependents, and survivors, in addition to any compensation or other benefits provided to such persons:

(A) Retirement, pension, disability, medical, and hospitalization benefits, through the purchase of insurance or otherwise, but medical and hospitalization benefits may only be provided through the Department of Community Health under the same conditions as provided for such benefits to state employees, and the Department of Community Health shall so provide if requested;

(B) Life insurance coverage and coverage under federal old age and survivors' insurance programs;

(C) Sick leave, annual leave, and holiday leave; and

(D) Any other similar benefits including, but not limited to, death benefits;

(8) Each community service board may cooperate with all units of local government in the counties where the community service board provides services as well as neighboring regions and with the programs of other departments, agencies, and regional commissions and regional planning boards;

(9) Each community service board shall establish and maintain a personnel program for its employees and fix the compensation and terms of compensation of its employees; provided, however, that each community service board shall comply with the provisions of Chapter 20 of Title 45, for so long as and to the extent that each employee of such board remains subject to the rules and regulations of the State Personnel Board or as otherwise provided by law;

(10) Each community service board may receive and administer grants, gifts, contracts, moneys, and donations for purposes pertaining to the delivery of disability services or of health services;

(11) Each community service board may establish fees for the provision of disability services or health services according to the terms of contracts entered into with the department, Department of Human Services, Department of Public Health, or Department of Community Health, as appropriate; provided, however, that all fees collected shall be used solely in accordance with the statutory nonprofit and public purposes of community service boards as prescribed in Article 1 of Chapter 2 of Title 37;

(12) Each community service board may accept appropriations, loans of funds, facilities, equipment, and supplies from local govern-

mental entities in the counties where the community service board provides services;

(13) Each member of the governing board of a community service board may, upon approval of the executive director, receive reimbursement for actual expenses incurred in carrying out the duties of such office; provided, however, that such reimbursement shall not exceed the rates and allowances set for state employees by the Office of Planning and Budget or the mileage allowance for use of a personal car as that received by all other state officials and employees or a travel allowance of actual transportation cost if traveling by public carrier;

(14) Each governing board of a community service board shall elect a chairperson and vice chairperson from among its membership. The governing board members shall also elect a secretary and treasurer from among its membership or may designate the executive director of the community service board to serve in one or both offices. Such officers shall serve for such terms as shall be prescribed in the bylaws of the community service board or until their respective successors are elected and qualified. No governing board member shall hold more than one office of the governing board of a community service board; except that the same person may serve as secretary and treasurer. The bylaws of the governing board of a community service board shall provide for any other officers of such board and the means of their selection, the terms of office of the officers, and an annual meeting to elect officers;

(15) Each community service board may have a seal and alter it;

(16) Each community service board may establish fees, rates, rents, and charges for the use of facilities of the community service board for the provision of disability services or of health services, in accordance with the terms of contracts entered into with the department, Department of Human Services, Department of Public Health, or Department of Community Health, as appropriate;

(17) Each community service board may borrow money for any business purpose and may incur debt, liabilities, and obligations for any business purpose. A debt, liability, or obligation incurred by a community service board shall not be considered a debt, liability, or obligation of the state or any county or any municipality or any political subdivision of the state. A community service board may not borrow money as permitted by this Code section if the highest aggregate annual debt service requirements of the then current fiscal year or any subsequent year for outstanding borrowings of the community service board, including the proposed borrowing, exceed 15 percent of the total revenues of the community service board in its

fiscal year immediately preceding the fiscal year in which such debt is to be incurred. Interest paid upon such borrowings shall be exempt from taxation by the state or its political subdivisions. A state contract with a community service board shall not be used or accepted as security or collateral for a debt, liability, or obligation of a community service board without the prior written approval of the commissioner;

(18) Each community service board, to the extent authorized by law and the contract for the funds involved, may carry forward without lapse fund balances and establish operating, capital, and debt reserve accounts from revenues and grants derived from state, county, and all other sources; and

(19) Each community service board may operate, establish, or operate and establish facilities deemed by the community service board as necessary and convenient for the administration, operation, or provision of disability services or of health services by the community service board and may construct, reconstruct, improve, alter, repair, and equip such facilities to the extent authorized by state and federal law.

(c) Nothing shall prohibit a community service board from contracting with any county governing authority, private or other public provider, or hospital for the provision of disability services or of health services.

(d) Each community service board exists for nonprofit and public purposes, and it is found and declared that the carrying out of the purposes of each community service board is exclusively for public benefit and its property is public property. Thus, no community service board shall be required to pay any state or local ad valorem, sales, use, or income taxes.

(e) A community service board shall not have the power to tax, the power to issue general obligation bonds or revenue bonds or revenue certificates, or the power to financially obligate the state or any county or any municipal corporation.

(f) A community service board shall not operate any facility for profit. A community service board may fix fees, rents, rates, and charges that are reasonably expected to produce revenues, which, together with all other funds of the community service board, will be sufficient to administer, operate, and provide the following:

(1) Disability services or health services;

(2) The cost of acquiring, constructing, equipping, maintaining, repairing, and operating its facilities; and

(3) The creation and maintenance of reserves sufficient to meet principal and interest payments due on any obligation of the community service board.

(g) Each community service board may provide reasonable reserves for the improvement, replacement, or expansion of its facilities and services. Reserves under this subsection shall be subject to the limitations in paragraph (15) of subsection (b) of this Code section.

(h) Each county and municipal corporation of this state is authorized to convey or lease property of such county or municipal corporation to a community service board for its public purposes. Any property conveyed or leased to a community services board by a county or municipal corporation shall be operated by such community service board in accordance with this chapter and the terms of the community service board's agreements with the county or municipal corporation providing such conveyance or lease.

(i) Each community service board and any entity created or formed by such community service board pursuant to subsection (j) of this Code section shall keep books of account reflecting all funds received, expended, and administered by the community service board in accordance with generally accepted accounting principles. The community service board and an entity created or formed by such community service board, if any, pursuant to subsection (j) of this Code section shall assure the inclusion in its annual audit any information or procedures required by the department. The community service board and an entity created or formed by such community service board, if any, pursuant to subsection (j) of this Code section shall rotate audit firms at least once every five years. Copies of the annual audit and all findings shall be submitted to the department and the governing board of the community service board, or in the case of an entity created or formed by the community service board, if any, to the governing board of the community service board, the governing board of such entity, and the department within 60 days of completion of the audit.

(j) Subject to the approval of the commissioner and the governing board of the community service board, a community service board may create, form, or become a member of a nonprofit corporation, limited liability company, or other nonprofit entity, the voting membership of which shall be limited to community service boards, governmental entities, nonprofit corporations, or a combination thereof, if such entity is created for purposes that are within the powers of the community service board, for the cooperative functioning of its members, or a combination thereof; provided, however, that no funds provided pursuant to a contract between the department and the community service board may be used in the formation or operation of the nonprofit corporation, limited liability company, or other nonprofit entity. No

community service board, whether or not it exercises the power authorized by this subsection, shall be relieved of compliance with Chapter 14 of Title 50, relating to open and public meetings, and Article 4 of Chapter 18 of Title 50, relating to inspection of public records, unless otherwise provided by law. The provisions of this subsection relating to the approval of the commissioner to the contrary notwithstanding, nothing in this subsection shall prohibit a community service board from creating, forming, or becoming a member of a national, regional, or state trade association or business league as defined for tax exempt purposes by the United States Internal Revenue Service for the benefit of member community service boards and similar organizations.

(k) No community service board shall employ or retain in employment, either directly or indirectly through contract, any person who is receiving a retirement benefit from the Employees' Retirement System of Georgia except in accordance with the provisions of subsection (c) of Code Section 47-2-110; provided, however, that any such person who is employed as of July 1, 2004, may continue to be employed.

(l) A community service board may join or form and operate, either directly or indirectly, one or more networks of community service boards, disability or health service professionals, and other providers of disability services or health services to arrange for the provision of disability services or health services through such networks; to contract either directly or through such networks with the Department of Community Health to provide services to Medicaid beneficiaries; to provide disability services or health services in an efficient and cost-effective manner on a prepaid, capitation, or other reimbursement basis; and to undertake other disability or health services related managed care activities. For purposes of this subsection only and notwithstanding Code Section 33-3-3 or any other provision of law, a community service board shall be permitted to and shall comply with the requirements of Chapter 20A of Title 33 to the extent that such requirements apply to the activities undertaken by the community service board or by a community service board under this subsection or subsection (j) of this Code section. No community service board, whether or not it exercises the powers authorized by this subsection, shall be relieved of compliance with Article 4 of Chapter 18 of Title 50, relating to inspection of public records, unless otherwise provided by law. Any licensed health care provider shall be eligible to apply to become a participating provider under such a plan or network that provides coverage for health care, disability services, or health services which are within the lawful scope of the provider's license, but nothing in this Code section shall be construed to require any such plan or network to provide coverage for any specific health care, disability service, or health service. (Code 1981, § 37-2-6.1, enacted by Ga. L. 1993, p. 1445, § 16; Ga. L. 1994, p. 437, § 5; Ga. L. 2002, p. 1324,

§§ 1-7, 2-4, 2-5; Ga. L. 2004, p. 150, § 1; Ga. L. 2006, p. 310, § 6/HB 1223; Ga. L. 2009, p. 453, § 3-1/HB 228; Ga. L. 2009, p. 745, § 2/SB 97; Ga. L. 2010, p. 878, § 37/HB 1387; Ga. L. 2011, p. 705, § 5-23/HB 214; Ga. L. 2012, p. 446, § 2-58/HB 642; Ga. L. 2014, p. 309, § 5/SB 349.)

**The 2014 amendment**, effective April 16, 2014, rewrote this Code section.

### **37-2-6.3. Public body; lawsuits; debts, obligations, and liabilities.**

(a) A community service board is a public body as provided in paragraph (1) of subsection (c) of Code Section 37-2-11.1.

(b) A community service board has the power to bring an action in its own name and, to the extent otherwise authorized by law and to the extent not immune from suit, may be sued in its own name. The state and the counties in which the community service board operates shall not be considered a party to or liable under any such litigation.

(c) The governing board of a community service board as well as the community service board itself shall be prohibited from bringing any action against the state.

(d) Debts, obligations, and liabilities of a community service board are not debts, obligations, or liabilities of the state or of the counties in which such board operates. A community service board is prohibited from entering into debts, obligations, or liabilities which are also debts, obligations, or liabilities of the state or of any county. (Code 1981, § 37-2-6.3, enacted by Ga. L. 2002, p. 1324, § 2-6; Ga. L. 2009, p. 8, § 37/SB 46; Ga. L. 2009, p. 453, § 3-1/HB 228; Ga. L. 2014, p. 309, § 6/SB 349.)

**The 2014 amendment**, effective April 16, 2014, added subsection (c) and redesignated former subsection (c) as present subsection (d).

### **37-2-6.5. Cessation of operations by community service board; notification; continuation of operations by successor board, county board of health, or outside manager.**

(a) By joint action of the membership of a community service board created pursuant to Code Section 37-2-6 and the governing authority of each county within the community service board area, such community service board may cease operations; provided, however, that such community service board shall notify the commissioner at least 90 days in advance of the meeting of the community service board in which such action is to be taken. Such joint action shall indicate the date on which the community service board shall cease operations.

(b) Upon receipt of notification that a community service board intends to cease operations, the commissioner shall notify the chairperson and executive director of such community service board and the governing authority of each county within the community service board area of such board that:

(1) The department, after securing the approval of the Governor, intends to appoint a manager or management team to manage and operate the programs and services of the community service board in accordance with the provisions of paragraph (1) of subsection (c) of Code Section 37-2-10 until the department shall determine:

(A) That such community service board should continue in operation, provided one or more members appointed to such board in accordance with subsection (b) of Code Section 37-2-6 shall be removed in accordance with subparagraph (c)(3)(H) of Code Section 37-2-10, and the department, acting on behalf of the membership of the community service board, nominates a successor to a removed member and advises the county governing authority that appointed such removed member to appoint a successor;

(B) That all of the members of such community service board appointed in accordance with subsection (b) of Code Section 37-2-6 shall be removed and such community service board shall be reconstituted; and that the department shall assist the county governing authorities in making appointments to the new community service board; or

(C) In the case where the membership of such community service board is the membership of a county board of health designated in accordance with Code Section 31-3-12.1 or subsection (e) of Code Section 37-2-6, that the entire membership of the community service board should be removed and the membership of the community service board be reconstituted in accordance with subsection (b) of Code Section 37-2-6;

(2) The department, with the approval of the commissioner, intends to redesignate the boundaries of the community service board area served by such board pursuant to paragraph (1) of subsection (b) of Code Section 37-2-3 by expanding the boundaries of a community service board area served by another community service board to include the counties in the community service board area served by the community service board that intends to cease operations so that the community service board serving such area may assume responsibility for the provision of disability services within such counties;

(3) The department intends to request pursuant to Code Section 31-3-12.1 that the governing authority of a county within the community service board area of such board authorize the membership of

the board of health of such county to serve as the membership of such community service board; or

(4) The department, after securing the approval of the Governor, intends to appoint a manager or management team to manage and operate the programs and services of the community service board until such time as arrangements can be made to secure one or more alternate service providers to assume responsibility for the provision of services previously provided by the community service board.

(c) If a community service board ceases operation and is succeeded by another community service board pursuant to paragraph (2), a county board of health pursuant to paragraph (3), or a manager or management team pursuant to paragraph (4) of subsection (b) of this Code section, the department shall make a determination about the disposition of all assets, equipment, and resources purchased with state or federal funding in the possession of the predecessor community service board.

(d) If a community service board ceases operation and one or more alternate service providers assume responsibility for the provision of services previously provided by the community service board pursuant to paragraph (4) of subsection (b) of this Code section, the department shall petition the superior court of the county in which the principal office of that community service board was located for appointment of a receiver of the assets of the community service board for the protection of the board's creditors and the public. The receiver shall be authorized to marshal and sell or transfer assets of the board, and, after payment of the costs, expenses, and approved fees of the proceeding, to pay the liabilities of the community service board. The court shall then decree that the board be dissolved. Upon completion of the liquidation, any surplus remaining after paying all costs of the liquidation shall be distributed, as determined by the court, to the agencies, entities, or providers providing disability services in the community service board area formerly served by the community service board which ceased operations. At no time shall any community service board upon ceasing operations convey any of its property, except as may be otherwise authorized by a superior court in this subsection, to any private person, association, or corporation. (Code 1981, § 37-2-6.5, enacted by Ga. L. 2006, p. 310, § 7/HB 1223; Ga. L. 2009, p. 453, § 3-1/HB 228; Ga. L. 2010, p. 878, § 37/HB 1387; Ga. L. 2014, p. 309, § 7/SB 349.)

**The 2014 amendment**, effective April 16, 2014, in paragraph (b)(2), substituted “a community” for “an adjacent commu-

nity” near the middle and deleted “adjacent” preceding “area may” near the end.

**37-2-10. Commissioner's emergency powers upon failure of community service board to establish and administer programs.**

(a) Notwithstanding any other provisions of the law, the commissioner with the concurrence of the Governor is authorized to establish and administer community programs on an emergency basis in the event one or more community service boards or their respective governing boards fail to assume responsibility for the establishment and implementation of an adequate range of disability services or to provide appropriate disability services as determined by the department or substantially breach their contracts with the department pursuant to this chapter.

(b) Upon notification by a governing board of a community service board of an inability to provide an adequate range of disability services or to provide appropriate services, the commissioner, with concurrence of the Governor, may:

(1) Assume responsibility for the administration and operation of all of the community programs operated by or through such board and, in which case, the programs shall become department programs; the department shall acquire the assets of the community service board; the community service board employees shall become employees of the department; and the governing board of the community service board shall be dissolved; or

(2) Assume responsibility for the administration and operation of one or more of the community programs operated by or through such board, in which case, such program or programs shall become a department program or programs; the department shall acquire those assets of the community service board assigned to such program or programs; and the employees of such program or programs shall become employees of the department. Any community service board programs not transferred to the department shall continue to be operated by the governing board of the community service board and the employees for such programs shall remain community service board employees.

(c)(1) Notwithstanding any other provisions of the law, the commissioner with the concurrence of the Governor is authorized to appoint a manager or management team to manage and operate the programs and services of the community service board if the commissioner finds that the community service board:

(A) Provides notice pursuant to Code Section 37-2-6.5 that the community service board intends to cease operations;

(B) Intentionally, recklessly, or negligently failed to discharge its duties pursuant to a contract with the department;

(C) Misused state or federal funds;

(D) Engaged in a fraudulent act, transaction, practice, or course of business;

(E) Endangered the life, safety, or health of a consumer served by the community service board;

(F) Failed to keep fiscal records and maintain proper control over its assets;

(G) Failed to respond to a substantial deficiency in a review or audit;

(H) Otherwise substantially failed to comply with this chapter or the rules or standards of the department; or

(I) No longer has the fiscal ability to continue to provide contracted services and, without the intervention of the department, continued provision of disability services or health services to consumers in the service area is in immediate jeopardy.

(2) In order to carry out the provisions of paragraph (1) of this subsection, the commissioner shall give written notice to the governing board of the community service board regarding the appointment of a manager or management team and the circumstances on which the appointment is based. The governing board of the community service board shall be immediately suspended upon the appointment of a manager or management team by the commissioner. The commissioner may require the community service board to pay costs incurred by the manager or management team.

(3) Subject to the determination of the commissioner, a manager or management team appointed pursuant to this subsection may:

(A) Evaluate, redesign, modify, administer, supervise, or monitor a procedure, operation, or the management of the community service board;

(B) Hire, supervise, discipline, reassign, or terminate the employment of an employee of the community service board;

(C) Reallocate the resources and manage the assets of the community service board;

(D) Require that a financial transaction, expenditure, or contract for goods and services be approved by the manager or management team;

(E) Redesign, modify, or terminate a program or service of the community service board;

(F) Direct the executive director, chief financial officer, or any other administrative or program manager, employee, or agent to take an action;

(G) Exercise a power, duty, authority, or function of the community service board or its governing board as authorized by this chapter;

(H) Recommend to the commissioner the removal of a member or members of the governing board of the community service board or the executive director of the community service board; and the provisions of any law to the contrary notwithstanding, the commissioner may remove such member or executive director from office. If the commissioner removes a member or members of the governing board of the community service board pursuant to this subparagraph, the member or members so removed shall be replaced pursuant to Code Section 37-2-6; and

(I) Report at least monthly to the commissioner on actions taken.

(4) A manager or management team appointed pursuant to this subsection may not use or dispose of any asset or funds contributed to the community service board by the governing authority of a county or municipal corporation without the approval of such governing authority.

(5) A manager or management team appointed pursuant to this subsection shall be free from all liability, joint or several, for the manager or management team's acts, omissions, and conduct and for the acts, omissions, and conduct of their duly constituted agents in the administration of the community service board or its programs. The state shall indemnify and save them, and each of them, harmless from the effects and consequences of their acts, omissions, and conduct in their official capacity, except to the extent that such effects and consequences shall result from their own willful misconduct.

(6) If a manager or management team is appointed pursuant to this Code section, the department may:

(A) Upon a determination that the conditions that gave rise to the appointment of a manager or management team pursuant to this subsection have been met and that such manager or management team is no longer necessary, terminate the authority delegated to such manager or management team and restore authority to the governing board of the community service board to manage and operate the services and programs of the community service board; or

(B) Operate and manage the programs of the community service board until such time as arrangements can be made to secure one

or more alternate service providers to assume responsibility for the provision of services previously provided by the community service board. If this option is exercised, the department shall petition the appropriate superior court for appointment of a receiver pursuant to subsection (d) of Code Section 37-2-6.5.

(7) Nothing in this subsection shall be construed to prohibit the department from canceling a contract with a community service board. (Code 1933, § 88-610, enacted by Ga. L. 1976, p. 953, § 1; Ga. L. 1986, p. 1213, § 1; Ga. L. 1993, p. 1445, § 16; Ga. L. 2002, p. 1324, § 1-7; Ga. L. 2006, p. 310, § 8/HB 1223; Ga. L. 2009, p. 453, § 3-1/HB 228; Ga. L. 2010, p. 878, § 37/HB 1387; Ga. L. 2014, p. 309, § 8/SB 349.)

**The 2014 amendment**, effective April 16, 2014, inserted “or their respective governing boards” in subsection (a); inserted “governing board of a” in subsection (b); in paragraph (b)(1), deleted “and” following “community service board,” in the middle and inserted “; and the governing board of the community service board shall be dissolved” near the end; inserted “governing board of the” in paragraph (b)(2); deleted “in extenuating circumstances,” following “provisions of the law,” near the beginning of paragraph (c)(1); substituted “the community service board” for “such board” in subparagraph (c)(1)(A); inserted “governing board of the” in the first sentence of

paragraph (c)(2) and in paragraph (c)(6)(A); added the second sentence in paragraph (c)(2); in subparagraph (c)(3)(F), deleted “the members of the community service board,” following “Direct” and inserted “, employee, or agent”; inserted “or its governing board” in subparagraph (c)(3)(G); in subparagraph (c)(3)(H), inserted “or members of the governing board of the community service board” near the beginning of the first sentence and inserted the last sentence; added paragraph (c)(5); and redesignated former paragraphs (c)(5) and (c)(6) as present paragraphs (c)(6) and (c)(7), respectively.

## CHAPTER 3

### EXAMINATION, TREATMENT, ETC., FOR MENTAL ILLNESS

#### Article 3

##### Examination, Hospitalization, and Treatment of Involuntary Patients

###### PART 1

EMERGENCY RECEIVING FACILITIES FOR EXAMINATION OF PERSONS APPREHENDED PURSUANT TO PHYSICIAN'S CERTIFICATE, COURT ORDER, ETC.

Sec.

37-3-41. (Effective until March 15, 2015. See note.) Emergency admission based on physician's

Sec.

certification or court order; report by apprehending officer; entry of treatment order into patient's clinical record; authority of other personnel to act under statute.

37-3-41. (Effective March 15, 2015. See note.) Emergency admission based on physician's certification or court order; report by apprehending officer; entry of treatment order into patient's clinical record; authority of other personnel to act under statute.

## ARTICLE 1

### GENERAL PROVISIONS

#### 37-3-1. Definitions.

#### JUDICIAL DECISIONS

**Definition of mentally ill outpatient not met.** — There was no evidence to support a finding that without involuntary treatment, the defendant, who had a good insight into the defendant's condition and was compliant and independently car-

ing for self, would be a danger of imminently becoming an inpatient again and thus, the defendant did not fit the definition of mentally ill outpatient. *Coogler v. State*, 324 Ga. App. 796, 751 S.E.2d 584 (2013).

**37-3-4. Immunity of hospitals, physicians, peace officers, or other private or public hospital employees from liability for actions taken in good faith compliance with admission and discharge provisions of chapter; immunity not applicable to failure to meet standard of care in provision of treatment.**

#### JUDICIAL DECISIONS

**Breach of psychiatrist-patient relationship is issue of fact.** — Trial court did not err in denying a psychiatrist's motion for summary judgment in a pa-

tient's medical malpractice action because whether the psychiatrist breached duties arising from the psychiatrist-patient relationship was an issue of fact; under

O.C.G.A. §§ 37-3-4 and 51-1-27, the psychiatrist could be held liable if the treatment of the patient fell below the requisite standard of care, and that failure proximately caused the patient's injury. *Peterson v. Reeves*, 315 Ga. App. 370, 727 S.E.2d 171 (2012).

## ARTICLE 3

### EXAMINATION, HOSPITALIZATION, AND TREATMENT OF INVOLUNTARY PATIENTS

#### PART 1

##### EMERGENCY RECEIVING FACILITIES FOR EXAMINATION OF PERSONS APPREHENDED PURSUANT TO PHYSICIAN'S CERTIFICATE, COURT ORDER, ETC.

**37-3-41. (Effective until March 15, 2015. See note.) Emergency admission based on physician's certification or court order; report by apprehending officer; entry of treatment order into patient's clinical record; authority of other personnel to act under statute.**

(a) Any physician within this state may execute a certificate stating that he or she has personally examined a person within the preceding 48 hours and found that, based upon observations set forth in the certificate, such person appears to be a mentally ill person requiring involuntary treatment. A physician's certificate shall expire seven days after it is executed. Any peace officer, within 72 hours after receiving such certificate, shall make diligent efforts to take into custody the person named in the certificate and to deliver him or her forthwith to the nearest available emergency receiving facility serving the county in which the patient is found, where he or she shall be received for examination.

(b) The appropriate court of the county in which a person may be found may issue an order commanding any peace officer to take such person into custody and deliver him or her forthwith for examination, either to the nearest available emergency receiving facility serving the county in which the patient is found, where such person shall be received for examination, or to a physician who has agreed to examine such patient and who will provide, where appropriate, a certificate pursuant to subsection (a) of this Code section to permit delivery of such patient to an emergency receiving facility pursuant to subsection (a) of this Code section. Such order may only be issued if based either upon an unexpired physician's certificate, as provided in subsection (a) of this Code section, or upon the affidavits of at least two persons who attest that, within the preceding 48 hours, they have seen the person to be taken into custody and that, based upon observations contained in their

affidavit, they have reason to believe such person is a mentally ill person requiring involuntary treatment. The court order shall expire seven days after it is executed.

(c) Any peace officer taking into custody and delivering for examination a person, as authorized by subsection (a) or (b) of this Code section, shall execute a written report detailing the circumstances under which such person was taken into custody. The report and either the physician's certificate or court order authorizing such taking into custody shall be made a part of the patient's clinical record.

(d) Any psychologist, clinical social worker, licensed professional counselor, or clinical nurse specialist in psychiatric/mental health may perform any act specified by this Code section to be performed by a physician. Any reference in any part of this chapter to a physician acting under this Code section shall be deemed to refer equally to a psychologist, a clinical social worker, a licensed professional counselor, or a clinical nurse specialist in psychiatric/mental health acting under this Code section. For purposes of this Code section, the term "psychologist" means any person authorized under the laws of this state to practice as a licensed psychologist; the term "clinical social worker" means any person authorized under the laws of this state to practice as a licensed clinical social worker; the term "licensed professional counselor" means any person authorized under the laws of this state to practice as a licensed professional counselor; and the term "clinical nurse specialist in psychiatric/mental health" means any person authorized under the laws of this state to practice as a registered professional nurse and who is recognized by the Georgia Board of Nursing to be engaged in advanced nursing practice as a clinical nurse specialist in psychiatric/mental health. (Code 1933, § 88-504.2, enacted by Ga. L. 1969, p. 505, § 1; Ga. L. 1971, p. 796, § 1; Ga. L. 1978, p. 1789, § 1; Ga. L. 1981, p. 996, § 4; Ga. L. 1987, p. 3, § 37; Ga. L. 1992, p. 2531, § 1.1; Ga. L. 1994, p. 1249, § 1; Ga. L. 2014, p. 347, § 1/SB 65.)

**Delayed effective date.** — This Code section, as set out above, is effective until March 15, 2015, in accordance with Ga. L. 2014, p. 347, § 2A/SB 65, which provides for the repeal of the amendment made by § 1 of that Act.

**The 2014 amendment**, effective July 1, 2014, and repealed effective March 15, 2015, in subsection (a), inserted "or she" in the first and third sentences, substituted "such person" for "the person" in the first sentence and inserted "or her" in the third sentence and near the middle of the first sentence of subsection (b); and, in subsection (d), inserted "licensed professional

counselor," in the first sentence, inserted "a licensed professional counselor," in the second sentence, in the third sentence, substituted "Code section" for "subsection" near the beginning, substituted a semicolon for a comma following "licensed psychologist" near the middle, and substituted "clinical social worker; the term 'licensed professional counselor' means any person authorized under the laws of this state to practice as a licensed professional counselor;" for "clinical social worker," in the middle.

**Editor's notes.** — Code Section 37-3-41 is set out twice in this Code. The

first version is effective until March 15, 2015, and the second version becomes effective on that date.

**37-3-41. (Effective March 15, 2015. See note.) Emergency admission based on physician's certification or court order; report by apprehending officer; entry of treatment order into patient's clinical record; authority of other personnel to act under statute.**

(a) Any physician within this state may execute a certificate stating that he has personally examined a person within the preceding 48 hours and found that, based upon observations set forth in the certificate, the person appears to be a mentally ill person requiring involuntary treatment. A physician's certificate shall expire seven days after it is executed. Any peace officer, within 72 hours after receiving such certificate, shall make diligent efforts to take into custody the person named in the certificate and to deliver him forthwith to the nearest available emergency receiving facility serving the county in which the patient is found, where he shall be received for examination.

(b) The appropriate court of the county in which a person may be found may issue an order commanding any peace officer to take such person into custody and deliver him forthwith for examination, either to the nearest available emergency receiving facility serving the county in which the patient is found, where such person shall be received for examination, or to a physician who has agreed to examine such patient and who will provide, where appropriate, a certificate pursuant to subsection (a) of this Code section to permit delivery of such patient to an emergency receiving facility pursuant to subsection (a) of this Code section. Such order may only be issued if based either upon an unexpired physician's certificate, as provided in subsection (a) of this Code section, or upon the affidavits of at least two persons who attest that, within the preceding 48 hours, they have seen the person to be taken into custody and that, based upon observations contained in their affidavit, they have reason to believe such person is a mentally ill person requiring involuntary treatment. The court order shall expire seven days after it is executed.

(c) Any peace officer taking into custody and delivering for examination a person, as authorized by subsection (a) or (b) of this Code section, shall execute a written report detailing the circumstances under which such person was taken into custody. The report and either the physician's certificate or court order authorizing such taking into custody shall be made a part of the patient's clinical record.

(d) Any psychologist, clinical social worker, or clinical nurse specialist in psychiatric/mental health may perform any act specified by this

Code section to be performed by a physician. Any reference in any part of this chapter to a physician acting under this Code section shall be deemed to refer equally to a psychologist, a clinical social worker, or a clinical nurse specialist in psychiatric/mental health acting under this Code section. For purposes of this subsection, the term "psychologist" means any person authorized under the laws of this state to practice as a licensed psychologist, the term "clinical social worker" means any person authorized under the laws of this state to practice as a licensed clinical social worker, and the term "clinical nurse specialist in psychiatric/mental health" means any person authorized under the laws of this state to practice as a registered professional nurse and who is recognized by the Georgia Board of Nursing to be engaged in advanced nursing practice as a clinical nurse specialist in psychiatric/mental health. (Code 1933, § 88-504.2, enacted by Ga. L. 1969, p. 505, § 1; Ga. L. 1971, p. 796, § 1; Ga. L. 1978, p. 1789, § 1; Ga. L. 1981, p. 996, § 4; Ga. L. 1987, p. 3, § 37; Ga. L. 1992, p. 2531, § 1.1; Ga. L. 1994, p. 1249, § 1; Ga. L. 2014, p. 347, §§ 1, 2A/SB 65.)

**Delayed effective date.** — This Code section, as set out above, is effective on March 15, 2015, in accordance with Ga. L. 2014, p. 347, § 2A/SB 65, which provides for the repeal of the amendment made by § 1 of that Act.

**Editor's notes.** — Code Section 37-3-41 is set out twice in this Code. The first version is effective until March 15, 2015, and the second version becomes effective on that date.

## ARTICLE 6

### RIGHTS AND PRIVILEGES OF PATIENTS, THEIR REPRESENTATIVES, ETC., GENERALLY

#### PART 2

##### RIGHTS AND PRIVILEGES AS TO MANNER OF CARE AND TREATMENT AND AS TO MAINTENANCE AND RELEASE OF CLINICAL RECORDS

**Cross references.** — Medical reports in narrative form, § 24-8-826. When medical information may be released, § 24-12-1 et seq.

#### 37-3-162. Patients' care and treatment rights.

##### JUDICIAL DECISIONS

**Breach of duty is an issue of fact.** — Trial court did not err in denying a psychiatrist's motion for summary judgment in a patient's medical malpractice action because whether the psychiatrist breached duties arising from the

psychiatrist-patient relationship was an issue of fact; pursuant to O.C.G.A. § 9-11-9.1, the patient presented expert testimony that the psychiatrist's breaches of the duty of care directly resulted in the foreseeable harm of the patient's attempt-

ing suicide. *Peterson v. Reeves*, 315 Ga. App. 370, 727 S.E.2d 171 (2012).

**Failure to commit as breach of duty of care.** — Under some circumstances, the failure to commit may constitute a breach of the well-established duty of care

physicians owe patients, and when a fact question has been created on that issue, the fact question is for the jury. *Peterson v. Reeves*, 315 Ga. App. 370, 727 S.E.2d 171 (2012).

**37-3-167. Right of patient to examine his records and to request correction of inaccuracies; promulgation of rules and regulations; judicial supervision of files and records relating to proceedings under this chapter.**

**Cross references.** — Release of medical information generally, § 24-12-1 et seq.

**37-3-168. Right of patient's attorney to interview physicians, psychologists, and staff attending patient; establishment of regulations as to release of information to patient's attorney.**

**Cross references.** — Release of medical information generally, § 24-12-1 et seq.

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## CHAPTER 4

### **HABILITATION OF THE DEVELOPMENTALLY DISABLED GENERALLY**

#### **ARTICLE 5**

#### **RIGHTS AND PRIVILEGES OF DEVELOPMENTALLY DISABLED PERSONS UNDERGOING HABILITATION, THEIR REPRESENTATIVES, ETC., GENERALLY**

##### **PART 2**

###### **RIGHTS AND PRIVILEGES AS TO MANNER OF HABILITATION AND AS TO MAINTENANCE AND RELEASE OF CLINICAL RECORDS**

**Cross references.** — When medical information may be released, § 24-12-1. Disclosure of medical records, § 24-12-11 et seq.

**37-4-126. Right of client to examine his records and to request correction of inaccuracies; promulgation of rules and regulations; judicial supervision of files and records relating to proceedings under this chapter.**

**Cross references.** — Release of medical information generally, § 24-12-1 et seq.

**37-4-127. Right of client's attorney to interview persons in charge of client's habilitation in a facility; establishment of regulations as to release of information to client's attorney.**

**Cross references.** — Release of medical information generally, § 24-12-1 et seq.

## CHAPTER 7

### HOSPITALIZATION AND TREATMENT OF ALCOHOLICS, DRUG DEPENDENT INDIVIDUALS, AND DRUG ABUSERS

Article 3	Sec.	
<b>Examination, Hospitalization, and Treatment of Involuntary Patients</b>		2015. See note.) Emergency involuntary treatment; who may certify need; delivery for examination; report of delivery required.
<b>PART 1</b>		(Effective March 15, 2015. See note.) Emergency involuntary treatment; who may certify need; delivery for examination; report of delivery required.
<b>EMERGENCY RECEIVING FACILITIES FOR EXAMINATION OF PERSONS APPREHENDED PURSUANT TO PHYSICIAN'S CERTIFICATE OR COURT ORDER</b>	37-7-41.	

Sec.

37-7-41. (Effective until March 15,

## ARTICLE 3

EXAMINATION, HOSPITALIZATION, AND TREATMENT OF  
INVOLUNTARY PATIENTS

## PART 1

EMERGENCY RECEIVING FACILITIES FOR EXAMINATION OF PERSONS  
APPREHENDED PURSUANT TO PHYSICIAN'S CERTIFICATE OR  
COURT ORDER

**37-7-41. (Effective until March 15, 2015. See note.) Emergency involuntary treatment; who may certify need; delivery for examination; report of delivery required.**

(a) Any physician within this state may execute a certificate stating that he has personally examined a person within the preceding 48 hours and found that, based upon observations set forth in the certificate, the person appears to be an alcoholic, a drug dependent individual, or a drug abuser requiring involuntary treatment. A physician's certificate shall expire seven days after it is executed. Any peace officer, within 72 hours after receiving such certificate, shall make diligent efforts to take into custody the person named in the certificate and to deliver him forthwith to the nearest available emergency receiving facility serving the county in which the patient is found, where he shall be received for examination.

(b) The appropriate court of the county in which a person may be found may issue an order commanding any peace officer to take such person into custody and deliver him forthwith for examination, either to the nearest available emergency receiving facility serving the county in which the patient is found, where such person shall be received for examination, or to a physician who has agreed to examine such patient and who will provide, where appropriate, a certificate pursuant to subsection (a) of this Code section to permit delivery of such patient to an emergency receiving facility pursuant to subsection (a) of this Code section. Such order may only be issued if based either upon an unexpired physician's certificate, as provided in subsection (a) of this Code section, or upon the affidavits of at least two persons who attest that, within the preceding 48 hours, they have seen the person to be taken into custody and that, based upon observations contained in their affidavit, they have reason to believe such person is an alcoholic, a drug dependent individual, or a drug abuser requiring involuntary treatment. The court order shall expire seven days after it is executed.

(c) Any peace officer taking into custody and delivering for examination a person, as authorized by subsection (a) or (b) of this Code section,

shall execute a written report detailing the circumstances under which such person was taken into custody. The report and either the physician's certificate or court order authorizing such custody shall be made a part of the patient's record.

(d) Any psychologist, clinical social worker, licensed professional counselor, or clinical nurse specialist in psychiatric/mental health may perform any act specified by this Code section to be performed by a physician. Any reference in any part of this chapter to a physician acting under this Code section shall be deemed to refer equally to a psychologist, a clinical social worker, a licensed professional counselor, or a clinical nurse specialist in psychiatric/mental health acting under this Code section. For purposes of this Code section, the term "psychologist" means any person authorized under the laws of this state to practice as a licensed psychologist; the term "clinical social worker" means any person authorized under the laws of this state to practice as a licensed clinical social worker; the term "licensed professional counselor" means any person authorized under the laws of this state to practice as a licensed professional counselor; and the term "clinical nurse specialist in psychiatric/mental health" means any person authorized under the laws of this state to practice as a registered professional nurse and who is recognized by the Georgia Board of Nursing to be engaged in advanced nursing practice as a clinical nurse specialist in psychiatric mental health. (Code 1933, § 88-404.7, enacted by Ga. L. 1971, p. 273, § 1; Code 1933, § 88-404.2, enacted by Ga. L. 1978, p. 1856, § 1; Ga. L. 1981, p. 996, § 2; Ga. L. 1987, p. 3, § 37; Ga. L. 1992, p. 2531, § 2; Ga. L. 1994, p. 1249, § 2; Ga. L. 2014, p. 347, § 2/SB 65.)

**Delayed effective date.** — This Code section, as set forth above, is effective until March 15, 2015, in accordance with Ga. L. 2014, p. 347, § 2A/SB 65, which provides for the repeal of the amendment made by § 2 of that Act.

**The 2014 amendment**, effective July 1, 2014, and repealed effective March 15, 2015, in subsection (d), inserted "licensed professional counselor," in the first sentence; inserted "a licensed professional counselor," in the second sentence; and in the third sentence, substituted "Code section" for "subsection" near the beginning,

substituted a semicolon for a comma following "licensed psychologist" near the middle, and substituted "clinical social worker; the term 'licensed professional counselor' means any person authorized under the laws of this state to practice as a licensed professional counselor;" for "clinical social worker," in the middle.

**Editor's notes.** — Code Section 37-7-41 is set out twice in this Code. The first version is effective until March 15, 2015, and the second version becomes effective on that date.

**37-7-41. (Effective March 15, 2015. See note.) Emergency involuntary treatment; who may certify need; delivery for examination; report of delivery required.**

(a) Any physician within this state may execute a certificate stating that he has personally examined a person within the preceding 48

hours and found that, based upon observations set forth in the certificate, the person appears to be an alcoholic, a drug dependent individual, or a drug abuser requiring involuntary treatment. A physician's certificate shall expire seven days after it is executed. Any peace officer, within 72 hours after receiving such certificate, shall make diligent efforts to take into custody the person named in the certificate and to deliver him forthwith to the nearest available emergency receiving facility serving the county in which the patient is found, where he shall be received for examination.

(b) The appropriate court of the county in which a person may be found may issue an order commanding any peace officer to take such person into custody and deliver him forthwith for examination, either to the nearest available emergency receiving facility serving the county in which the patient is found, where such person shall be received for examination, or to a physician who has agreed to examine such patient and who will provide, where appropriate, a certificate pursuant to subsection (a) of this Code section to permit delivery of such patient to an emergency receiving facility pursuant to subsection (a) of this Code section. Such order may only be issued if based either upon an unexpired physician's certificate, as provided in subsection (a) of this Code section, or upon the affidavits of at least two persons who attest that, within the preceding 48 hours, they have seen the person to be taken into custody and that, based upon observations contained in their affidavit, they have reason to believe such person is an alcoholic, a drug dependent individual, or a drug abuser requiring involuntary treatment. The court order shall expire seven days after it is executed.

(c) Any peace officer taking into custody and delivering for examination a person, as authorized by subsection (a) or (b) of this Code section, shall execute a written report detailing the circumstances under which such person was taken into custody. The report and either the physician's certificate or court order authorizing such custody shall be made a part of the patient's record.

(d) Any psychologist, clinical social worker, or clinical nurse specialist in psychiatric/mental health may perform any act specified by this Code section to be performed by a physician. Any reference in any part of this chapter to a physician acting under this Code section shall be deemed to refer equally to a psychologist, a clinical social worker, or a clinical nurse specialist in psychiatric/mental health acting under this Code section. For purposes of this subsection, the term "psychologist" means any person authorized under the laws of this state to practice as a licensed psychologist, the term "clinical social worker" means any person authorized under the laws of this state to practice as a licensed clinical social worker, and the term "clinical nurse specialist in psychiatric/mental health" means any person authorized under the laws of

this state to practice as a registered professional nurse and who is recognized by the Georgia Board of Nursing to be engaged in advanced nursing practice as a clinical nurse specialist in psychiatric/mental health. (Code 1933, § 88-404.7, enacted by Ga. L. 1971, p. 273, § 1; Code 1933, § 88-404.2, enacted by Ga. L. 1978, p. 1856, § 1; Ga. L. 1981, p. 996, § 2; Ga. L. 1987, p. 3, § 37; Ga. L. 1992, p. 2531, § 2; Ga. L. 1994, p. 1249, § 2; Ga. L. 2014, p. 347, §§ 2, 2A/SB 65.)

**Delayed effective date.** — This Code section, as set forth above, is effective on March 15, 2015, in accordance with Ga. L. 2014, p. 347, § 2A/SB 65, which provides for the repeal of the amendment made by § 2 of that Act.

**Editor's notes.** — Code Section 37-7-41 is set out twice in this Code. The first version is effective until March 15, 2015, and the second version becomes effective on that date.

## ARTICLE 6

### RIGHTS AND PRIVILEGES OF PATIENTS, THEIR REPRESENTATIVES, AND OTHERS GENERALLY

#### PART 2

##### RIGHTS AND PRIVILEGES AS TO MANNER OF CARE AND TREATMENT AND AS TO MAINTENANCE AND RELEASE OF CLINICAL RECORDS

**Cross references.** — Disclosure of medical records, § 24-12-11 et seq.

**37-7-167. Right of patient to examine his records and to request correction of inaccuracies; promulgation of rules and regulations; judicial supervision of files and records relating to proceedings under this chapter.**

**Cross references.** — Release of medical information generally, § 24-12-1 et seq.

**37-7-168. Right of patient's attorney to interview physician or psychologist and staff attending patient; establishment of regulations as to release of information to patient's attorney.**

**Cross references.** — Release of medical information generally, § 24-12-1 et seq.

# **TITLE 38**

## **MILITARY, EMERGENCY MANAGEMENT, AND VETERANS AFFAIRS**

Chap.

3. Emergency Management, 38-3-1 through 38-3-153.
4. Veterans Affairs, 38-4-1 through 38-4-72.

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### **CHAPTER 2**

#### **MILITARY AFFAIRS**

##### **ARTICLE 3**

###### **PERSONNEL**

###### **PART 4**

###### **RIGHTS, PRIVILEGES, AND PROHIBITIONS**

**38-2-280. Reemployment in private industry; various types of absences; injunction to compel; Attorney General's aid.**

**Cross references.** — Priority of service designation for veterans and spouses, § 34-14-6.

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### **CHAPTER 3**

#### **EMERGENCY MANAGEMENT**

##### **Article 2**

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## ARTICLE 2

### ORGANIZATION AND ADMINISTRATION

#### **38-3-37. Prohibited actions by government official or employee during declared state of emergency.**

(a) As used in this Code section, the term:

(1) "Firearm" means any handgun, rifle, shotgun, or similar device or weapon which will or can be converted to expel a projectile by the action of an explosive or electrical charge.

(2) "License holder" shall have the same meaning as set forth in Code Section 16-11-125.1.

(3) "Weapon" shall have the same meaning as set forth in Code Section 16-11-125.1.

(b) No official or employee of the state or any political subdivision thereof, member of the National Guard in the service of the state, or any person operating pursuant to or under color of state law, while acting during or pursuant to a declared state of emergency, shall:

(1) Temporarily or permanently seize, or authorize the seizure of, any firearm or ammunition or any component thereof the possession of which was not prohibited by law at the time immediately prior to the declaration of a state of emergency, other than as provided by the criminal or forfeiture laws of this state;

(2) Prohibit possession of any firearm or ammunition or any component thereof or promulgate any rule, regulation, or order prohibiting possession of any firearm or ammunition or any component thereof if such possession was not otherwise prohibited by law at the time immediately prior to the declaration of a state of emergency;

(3) Prohibit any license holder from carrying any weapon or promulgate any rule, regulation, or order prohibiting such carrying if such carrying was not otherwise prohibited by law at the time immediately prior to the declaration of a state of emergency; or

(4) Require the registration of any firearm. (Code 1981, § 38-3-37, enacted by Ga. L. 2014, p. 599, § 2-2/HB 60.)

**Effective date.** — This Code section became effective July 1, 2014.

**Cross references.** — Right to Keep and Bear Arms, US Const., amend. 2.

**Editor's notes.** — Ga. L. 2014, p. 599, § 1-1/HB 60, not codified by the General Assembly, provides: "This Act shall be

known and may be cited as the 'Safe Carry Protection Act.'"

Ga. L. 2014, p. 599, § 2-1/HB 60, not codified by the General Assembly, provides: "This part shall be known to be in honor of Representative Bobby Franklin."

## ARTICLE 3

### EMERGENCY POWERS

#### PART 1

##### GOVERNOR

#### **38-3-51. Emergency powers of Governor; termination of emergency; limitations in energy emergency; immunity.**

(a) In the event of actual or impending emergency or disaster of natural or human origin, or pandemic influenza emergency, or impending or actual enemy attack, or a public health emergency, within or affecting this state or against the United States, the Governor may declare that a state of emergency or disaster exists. As a condition precedent to declaring that a state of emergency or disaster exists as a result of a public health emergency, the Governor shall issue a call for a special session of the General Assembly pursuant to Article V, Section II, Paragraph VII of the Constitution of Georgia, which session shall convene at 8:00 A.M. on the second day following the date of such declaration for the purpose of concurring with or terminating the public health emergency. The state of emergency or disaster shall continue until the Governor finds that the threat or danger has passed or the emergency or disaster has been dealt with, to the extent that emergency or disaster conditions no longer exist, and terminates the state of emergency or disaster. No state of emergency or disaster may continue for longer than 30 days unless renewed by the Governor. The General Assembly by concurrent resolution may terminate a state of emergency or disaster at any time. Thereupon, the Governor shall by appropriate action end the state of emergency or disaster.

(b) A declaration of a state of emergency or disaster shall activate the emergency and disaster response and recovery aspects of the state and local emergency or disaster plans applicable to the political subdivision or area in question and shall be authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to Articles 1 through 3 of this chapter or any other law relating to emergencies or disasters.

(c) The Governor shall have and may exercise for such period as the state of emergency or disaster exists or continues the following additional emergency powers:

- (1) To enforce all laws, rules, and regulations relating to emergency management and to assume direct operational control of all civil forces and helpers in the state;
- (2) To seize, take for temporary use, or condemn property for the protection of the public in accordance with condemnation proceedings as provided by law;
- (3) To sell, lend, give, or distribute all or any such property among the inhabitants of the state and to account to the proper agency for any funds received for the property; and
- (4) To perform and exercise such other functions, powers, and duties as may be deemed necessary to promote and secure the safety and protection of the civilian population.

(d) In addition to any other emergency powers conferred upon the Governor by law, he may:

- (1) Suspend any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency or disaster;
- (2) Utilize all available resources of the state government and of each political subdivision of the state as reasonably necessary to cope with the emergency or disaster;
- (3) Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency services;
- (4) Commandeer or utilize any private property if he finds this necessary to cope with the emergency or disaster;
  - (4.1) Compel a health care facility to provide services or the use of its facility if such services or use are reasonable and necessary for emergency response. The use of such health care facility may include transferring the management and supervision of the health care facility to the Department of Public Health for a limited or unlimited period of time not extending beyond the termination of the public health emergency;
  - (5) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if he deems this action necessary for the preservation of life or other disaster mitigation, response, or recovery;

(6) Prescribe routes, modes of transportation, and destinations in connection with evacuation;

(7) Control ingress and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises therein;

(8) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, or combustibles; provided, however, that for purposes of this paragraph, the terms "explosives" and "combustibles" shall not include firearms or ammunition or any component thereof; and

(9) Make provision for the availability and use of temporary emergency housing.

(e) When the available funds are not sufficient for the purpose of paying the expenses incident to carrying out the provisions authorized by Articles 1 through 3 of this chapter, the Governor may transfer from any available fund in the state treasury such sum as may be necessary to meet the emergency or disaster; and the moneys so transferred shall be repaid to the fund from which transferred when moneys become available for that purpose by legislative appropriation or otherwise.

(f) In the event that the Governor proclaims an emergency or disaster, as defined by Articles 1 through 3 of this chapter, to be a catastrophe within the meaning of Article III, Section IX, Paragraph VI(b) of the Constitution of the state, the funds referred to in the paragraph may be utilized by the Governor for the purpose of carrying out the provisions authorized by Articles 1 through 3 of this chapter.

(g) In the event that the Governor proclaims an emergency or disaster, as defined in Articles 1 through 3 of this chapter, the Governor may provide welfare benefits to the citizens of this state in the form of grants to meet disaster related necessary expenses or serious needs of individuals or families adversely affected by an emergency or disaster in those cases where the individuals or families are unable to meet the expenses or needs from other means, provided that such grants are authorized only when matching federal funds are available for such purposes pursuant to the Disaster Relief Act of 1974 (Pub. L. 93-288).

(h) If the Governor declares a state of emergency solely because of an energy emergency, he shall not have the authority to:

(1) Seize, take for temporary use, or condemn property other than energy resources as authorized by paragraph (2) of subsection (c) of this Code section;

(2) Sell, lend, give, or distribute property other than energy resources as authorized by paragraph (3) of subsection (c) of this Code section; or

(3) Commandeer or utilize property other than energy resources as authorized by paragraph (4) of subsection (d) of this Code section.

(i)(1) The Governor may direct the Department of Public Health to coordinate all matters pertaining to the response of the state to a public health emergency including without limitation:

(A) Planning and executing public health emergency assessments, mitigation, preparedness response, and recovery for the state;

(B) Coordinating public health emergency responses between state and local authorities;

(C) Collaborating with appropriate federal government authorities, elected officials of other states, private organizations, or private sector companies;

(D) Coordinating recovery operations and mitigation initiatives subsequent to public health emergencies;

(E) Organizing public information activities regarding state public health emergency response operations; and

(F) Providing for special identification for public health personnel involved in a public health emergency.

(2) The following due process procedures shall be applicable to any quarantine or vaccination program instituted pursuant to a declaration of a public health emergency:

(A) Consonant with maintenance of appropriate quarantine rules, the department shall permit access to counsel in person or by such other means as practicable that do not threaten the integrity of the quarantine;

(B) An order imposing a quarantine or a vaccination program may be appealed but shall not be stayed during the pendency of the challenge. The burden of proof shall be on the state to demonstrate that there exists a substantial risk of exposing other persons to imminent danger. With respect to vaccination, the state's burden of proof shall be met by clear and convincing evidence. With respect to quarantine, the state's burden of proof shall be met by a preponderance of the evidence;

(C) An individual or a class may challenge the order before any available judge of the superior courts in the county where the individual or a member of the class resides or in Fulton County. Such judge, upon attestation of the exigency of the circumstances, may proceed ex parte with respect to the state or may appoint counsel to represent the interests of the state or other

unrepresented parties. The judge hearing the matter may consolidate a multiplicity of cases or, on the motion of a party or of the court, proceed to determine the interests of a class or classes. The rules of evidence applicable to civil cases shall be applied to the fullest extent practicable taking into account the circumstances of the emergency. All parties shall have the right to subpoena and cross-examine witnesses, but in enforcement of its subpoena powers the court shall take into account the circumstances of the emergency. All proceedings shall be transcribed to the extent practicable. Filing fees shall be waived and all costs borne by the state;

(D) The judge hearing the matter may enter an appropriate order upholding or suspending the quarantine or vaccination order. With respect to vaccination, the order may be applicable on notice to the department or its agents administering the vaccination, or otherwise in the court's discretion. With respect to quarantines, the order shall be automatically stayed for 48 hours;

(E) The department or any party may immediately appeal any order to the Supreme Court pursuant to paragraph (7) of subsection (a) of Code Section 5-6-34. The Supreme Court, or any available Justice thereof in the event that circumstances render a full court unavailable, shall consider the appeal on an expedited basis and may suspend any time requirements for the parties to file briefs. In the event no Justice is available, then a panel of the Court of Appeals, or any Judge thereof in the event that circumstances render a panel unavailable, shall consider the appeal on an expedited basis and may suspend any time requirements for the parties to file briefs. If the trial judge has proceeded ex parte or with counsel appointed for the state, the trial court shall either direct the filing of an appeal in its order or itself certify the order for appeal. Filing fees for appeal shall be waived, all costs shall be borne by the state, and such appeals shall be heard expeditiously; and

(F) No provisions of this paragraph shall be construed to limit or restrict the right of habeas corpus under the laws of the United States.

(j) Any individual, partnership, association, or corporation who acts in accordance with an order, rule, or regulation entered by the Governor pursuant to the authority granted by this Code section will not be held liable to any other individual, partnership, association, or corporation by reason thereof in any action seeking legal or equitable relief. (Ga. L. 1951, p. 224, § 7; Ga. L. 1973, p. 74, § 4; Ga. L. 1974, p. 558, § 1; Ga. L. 1975, p. 1551, § 1; Ga. L. 1977, p. 192, §§ 2, 3; Ga. L. 1981, p. 389, § 2; Ga. L. 1983, p. 3, § 59; Ga. L. 2002, p. 1386, §§ 12-15; Ga. L. 2009,

p. 184, § 4/HB 217; Ga. L. 2009, p. 453, § 1-4/HB 228; Ga. L. 2011, p. 701, § 1/HB 339; Ga. L. 2011, p. 705, § 6-3/HB 214; Ga. L. 2014, p. 599, § 2-3/HB 60.)

**The 2014 amendment**, effective July 1, 2014, substituted the present provisions of paragraph (d)(8) for the former provisions, which read: "Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles; provided, however, that any limitation on firearms under this Code section shall not include an individual firearm owned by a private citizen which was legal and owned by that citizen prior to the declaration of state of emergency or disaster or thereafter acquired in compliance with all applicable laws of this state and the United States; and".

**Editor's notes.** — Ga. L. 2014, p. 599, § 1-1/HB 60, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Safe Carry Protection Act.'"

Ga. L. 2014, p. 599, § 2-1/HB 60, not codified by the General Assembly, provides: "This part shall be known to be in honor of Representative Bobby Franklin."

### **38-3-57. Establishment of standardized, verifiable, performance based unified incident command system; utilization; training; implementation; funding; first informer broadcasters.**

(a) The Georgia Emergency Management Agency shall establish and maintain, in collaboration with all appropriate state agencies and volunteer organizations with emergency support function roles and professional organizations that represent local public safety agencies, including the Emergency Management Association of Georgia, the Georgia Association of Police Chiefs, the Georgia Fire Chiefs' Association, and the Georgia Sheriffs' Association, a standardized, verifiable, performance based unified incident command system.

(b) Such system shall be consistent with the Georgia Emergency Operations Plan and shall be utilized in response to emergencies and disasters referenced in the Georgia Emergency Operations Plan, including presidentially declared disasters and states of emergency issued by the Governor.

(c) The Georgia Emergency Management Agency, in cooperation with the Georgia Public Safety Training Center and the State Forestry Commission, shall develop or adopt a course of instruction for use in training and certifying emergency response personnel in unified incident command.

(d) All local public safety and emergency response organizations, including emergency management agencies, law enforcement agencies, fire departments, and emergency medical services, shall implement the standardized unified incident command system provided for in subsection (a) of this Code section by October 1, 2004.

(e) Local agencies that have not established such system by October 1, 2004, shall not be eligible for state reimbursement for any response or recovery related expenses.

(f)(1) As used in this subsection, the term:

(A) "Broadcaster" means any corporation or other entity that is primarily engaged in the business of broadcasting video or audio programming, whether through the public airwaves, cable, direct or indirect satellite transmission, or any other similar means of communication.

(B) "Emergency" means the declaration of a state of emergency or disaster as provided in Code Section 38-3-51 or as presidentially declared.

(C) "First informer broadcaster" means a broadcaster in Georgia who makes application to the Georgia Emergency Management Agency for designation as a first informer broadcaster and who is granted such designation as a first informer broadcaster pursuant to rules and regulations promulgated by the director of emergency management.

(2) The unified incident command system and the Georgia Emergency Operations Plan shall, by July 1, 2016, establish planning for first informer broadcasters such that first informer broadcasters, to any extent practicable, may during an emergency:

(A) Have access to areas affected by an emergency for the purpose of restoring, repairing, or resupplying any facility or equipment critical to the ability of a broadcaster to acquire, produce, or transmit emergency related programming, including but not limited to repairing and maintaining transmitters and generators and transporting fuel for generators;

(B) Have access to the distribution of fuel, food, water, supplies, equipment, and any other materials necessary for maintaining or producing a broadcast or broadcasting signal; and

(C) Not have vehicles, fuel, food, water, and any other materials seized or condemned that are essential for maintaining or producing a broadcast or broadcasting signal.

(3) The Georgia Emergency Management Agency may develop or adopt courses of instruction for use in training personnel of first informer broadcasters on personal safety and navigation in an area affected by an emergency. The requirements of any such training shall be established pursuant to rules and regulations promulgated by the director of emergency management. The costs of any such training shall be paid by the first informer broadcasters participating in the training. (Code 1981, § 38-3-57, enacted by Ga. L. 2004, p. 743, § 3; Ga. L. 2012, p. 775, § 38/HB 942; Ga. L. 2014, p. 680, § 2/SB 381.)

**The 2014 amendment**, effective July 1, 2014, added subsection (f).

**Editor's notes.** — Ga. L. 2014, p. 680, § 1/SB 381, not codified by the General

Assembly, provides: "This Act shall be known and may be cited as the 'Georgia First Informer Broadcasters Act.'"

## ARTICLE 10

### STATE-WIDE FIRST RESPONDER BUILDING MAPPING INFORMATION SYSTEM

**38-3-152. Creation and operation of building mapping information system; availability to government agencies; rules and regulations; federal funding sources; exemption of information from public disclosure; recommendations for training guidelines; limitations.**

**Law reviews.** — For article on the 2012 amendment of this Code section, see 29 Ga. St. U.L. Rev. 139 (2012).

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## CHAPTER 4

### VETERANS AFFAIRS

#### Article 2

#### Veterans Benefits

##### PART 4

##### RETURNING VETERANS TASK FORCE

Sec.

38-4-90. Creation.

Sec.

38-4-91. Membership.

38-4-92. Duties; recommendations.

**Cross references.** — Creation of veterans court division, § 15-1-17.

## ARTICLE 2

### VETERANS BENEFITS

##### PART 4

##### RETURNING VETERANS TASK FORCE

**Effective date.** — This part became effective July 1, 2013.

**38-4-90. Creation.**

There is created within the Department of Veterans Service the Returning Veterans Task Force. (Code 1981, § 38-4-90, enacted by Ga. L. 2013, p. 563, § 1/SB 76.)

**Cross references.** — Creation of veterans court division, § 15-1-17.

**38-4-91. Membership.**

The Returning Veterans Task Force shall consist of one representative each from the Department of Veterans Service appointed by the commissioner of veterans service, the Department of Community Health appointed by the commissioner of community health, the Department of Behavioral Health and Developmental Disabilities appointed by the commissioner of behavioral health and developmental disabilities, the Department of Labor appointed by the Commissioner of Labor, the Department of Defense appointed by the adjutant general, the Board of Regents of the University System of Georgia appointed by the chancellor of the Board of Regents of the University System of Georgia, and the Technical College System of Georgia appointed by the commissioner of the Technical College System of Georgia. Other agencies may be invited to participate in the task force based on needs identified over time. The member appointed by the commissioner of veterans service shall serve as chairperson of the task force. (Code 1981, § 38-4-91, enacted by Ga. L. 2013, p. 563, § 1/SB 76.)

**38-4-92. Duties; recommendations.**

The task force shall meet at least quarterly and shall investigate how state services can be provided to veterans returning from military service from which the veteran was discharged under conditions other than dishonorable within the most recent three years in order to assist them in integrating into society. The task force shall issue recommendations to each relevant state agency regarding improving the delivery of services to returning veterans. On or before November 1 of each year, the task force shall transmit specific suggestions for legislation designed to assist returning veterans to the Speaker of the House of Representatives, the Lieutenant Governor, and the Governor. (Code 1981, § 38-4-92, enacted by Ga. L. 2013, p. 563, § 1/SB 76.)

# **TITLE 39**

## **MINORS**

Chap.

3. Interstate Compact on Juveniles, 39-3-1 through 39-3-7.  
[Repealed]

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### **CHAPTER 1**

#### **GENERAL PROVISIONS**

##### **39-1-1. Age of legal majority; residence of persons in state for purpose of attending school.**

**Cross references.** — Termination of services upon reaching age of majority, juvenile's order of disposition, § 15-11-451.  
§ 15-11-443. Referral of juveniles to adult

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### **CHAPTER 3**

#### **INTERSTATE COMPACT ON JUVENILES**

Sec.

39-3-1 through 39-3-7 [Repealed].

##### **39-3-1 through 39-3-7.**

Reserved. Repealed by Ga. L. 2014, p. 763, § 1-1/HB 898, effective July 1, 2014.

**Editor's notes.** — This chapter consisted of Code Sections 39-3-1 through 39-3-7, relating to interstate compact on

juveniles, and was based on Ga. L. 1972, p. 784, §§ 1-7; Ga. L. 1976, p. 1070, § 1.

## **CHAPTER 4**

### **INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN**

#### **39-4-1. "Appropriate public authority" defined.**

##### **JUDICIAL DECISIONS**

**Cited in In the Interest of S.R.C.J., 317 Ga. App. 699, 732 S.E.2d 547 (2012).**

#### **39-4-10. Satisfaction of requirements for visitation, inspection, or supervision of children, homes, institutions, or other agencies.**

##### **JUDICIAL DECISIONS**

**Cited in In the Interest of S.R.C.J., 317 Ga. App. 699, 732 S.E.2d 547 (2012).**





